

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST : INTERIM DECISION AND ORDER
:
JOHN R. METTNER, : LS0908126APP
:
RESPONDENT. :

Division of Enforcement Case File # 08 APP 083 and 09 APP 024

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

John R. Mettner
3790 Misty Meadow Lane
De Pere, WI 54115

Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Interim Stipulation as the Interim Decision of the matter, subject to the approval of the Real Estate Appraisers Board (Board). The Board has reviewed the Interim Stipulation agreement annexed to this Interim Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Interim Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent John R. Mettner (Mettner), whose last known address of record with the Department of Regulation and Licensing (Department) is 3790 Misty Meadow Lane, De Pere, WI 54115, and whose date of birth is November 6, 1962, possesses a certificate of licensure as a licensed appraiser (#4-1262). The license was first granted on December 6, 1999, and will expire on December 15, 2009.

2. The Board, through the Department's Division of Enforcement, has made several requests for information from Mr. Mettner concerning several appraisals conducted by him within the past five years, including three conducted in 2008. Additionally, the Board has requested a response to allegations concerning two appraisals that are more than five years old. To date, Mr. Mettner has been unable or unwilling to provide adequate responses to the Board's requests for information. The outstanding requests are all more than forty (40) days old.

3. Mr. Mettner's license is currently limited by Board's Order number LS06101819APP.

4. The Board is required by the Appraisal Sub-Committee to attempt to resolve all appraisal complaints within one (1) year of filing. Failure to do so could result in the loss of federal recognition of all certifications for all appraisers in Wisconsin. Such action by the Federal Government would greatly impede the execution of real estate loans in the state of Wisconsin, and would greatly harm the public welfare. Therefore, it is imperative that certified and licensed appraisers make timely and complete responses to all requests for information.

5. Mr. Mettner's attorney was sent a copy of the Petition for Summary Suspension via U.S. Mail on July 28, 2009. On August 10, 2009, Mr. Mettner's attorney represented that he was authorized to consent to the summary suspension of Mr. Mettner's license.

6. Per Wis. Stat. § 458.26 (3), "... the board may limit, suspend or revoke any certificate under this chapter... if

the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24.”

7. Per Wis. Admin. Code § RL 86.01 (10), “After a request for information made by the board, a certified or licensed appraiser shall cooperate in a timely manner... There is a rebuttable presumption that a licensed or certified appraiser who takes longer than 30 calendar days to respond to a request for information by the board has not acted in a timely manner under this subsection.

8. Per Wis. Admin. Code RL 6.06, the Board has the authority to issue a summary suspension order.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.

2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated interim resolution of this matter pursuant to Wis. Stat. § 227.44 (5).

3. By failing to make adequate responses to request for information, as set forth more fully above in paragraph 2 of the Findings of Fact, **John R. Mettner** has violated Wis. Admin. Code § RL 86.01 (10), thereby subjecting himself to discipline per Wis. Stat. § 458.26 (3) (b).

4. Failure to adequately respond to requests for information constitutes and a danger to the public welfare that imperatively requires summary suspension of Mr. Mettner’s license.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **John R. Mettner’s** license (license # 4-1262), shall be and hereby is SUMMARILY SUSPENDED. This suspension may be terminated at any time by the Board’s assigned Case Advisor upon Respondent making adequate responses to all requests for information in these matters, in the sole opinion of the Case Advisor.

IT IS FURTHER ORDERED that:

2. Case numbers 08 APP 083 and 09 APP 024 shall remain open.

3. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Marla K. Britton
A Member of the Board

8/12/09
Date

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	INTERIM STIPULATION
	:	
JOHN R. METTNER,	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case File # 08 APP 083 and 09 APP 024

It is hereby stipulated and agreed, by and between John R. Mettner, Respondent; David D. Brown, Attorney for Respondent; and Mark A. Herman, Attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Interim Stipulation creates an interim order concerning pending investigations against Respondent’s licensure by the Division of Enforcement (08 APP 083 and 09 APP 024). Respondent consents to the issuance of this Interim Decision and Order in lieu of presentation of a summary suspension petition to the Real Estate Appraisers Board (Board).
2. Respondent understands that by signing this Interim Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify themselves; the right to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for termination of the summary suspension; the right to have a formal complaint issued against him within ten (10) days of the issuance of this Interim Order; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law. This waiver shall not bar him from exercising any such rights following the issuance of a Formal Complaint in these matters.
3. Respondent has obtained legal counsel prior to signing this Interim Stipulation.
4. Respondent agrees to the adoption of the attached Interim Decision and Order by the Board. The parties to the Interim Stipulation consent to the entry of the attached Interim Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board’s Interim Order, if adopted in the form as attached.
5. If the terms of this Interim Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Interim Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. The parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this Interim Decision and Order, either for now, or at the time of consideration of any final resolution of these investigations.
6. The parties to this Interim Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Interim Stipulation and issue the attached Interim Decision and Order.
7. Respondent is informed that should the Board adopt this Interim Stipulation, the Board’s Interim Decision and Order is a public record and may be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Interim Stipulation and issue the attached Interim Decision and Order.

David D. Brown, Attorney for
Respondent, and on behalf of
Respondent John R. Mettner
P.O. Box 897
Green Bay, WI 54305-0897

Date

Mark A. Herman, Attorney
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

Date